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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91187822
Party	Defendant IBIDMOTORS
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Date	01/12/2009
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No.
76/671,087

Published in the Official Gazette on June 3, 2008

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)	
uBid, Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No.: 91187822
)	
IBidMotors Corporation, New Jersey)	
)	
Applicant.)	
)	

ANSWER TO OPPOSITION

Applicant, IBidMotors Corporation (“Applicant”), hereby responds, pursuant to 37 C.F.R.

§2.114, in numbered paragraphs corresponding to the numbered paragraphs of the Notice of

Opposition, all with regard to Application Serial No.76/671,087 for IBIDMOTORS (& design)

(the “IBid Application”):

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4.

5. Applicant admits that Opposer or Takumi Interactive, Inc. is listed as the owner of the specific federal registrations listed in Paragraph 5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 5.

6. Applicant admits that on January 8, 2007, Applicant filed a use-based trademark application to register the mark IBIDMOTORS (& design) for “computerized on-line retail store services in the fields of automotive collectibles, memorabilia [sic], and apparel; organization of internet auctions” in International Class 35 based on Applicant’s use of such mark for such services. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 6.

7. Applicant denies the allegations of Paragraph 7.

AFFIRMATIVE DEFENSES

AFFIRMATIVE DEFENSE NO. 1

8. Applicant repeats and reiterates Paragraphs 1-7 as if fully restated herein.

9. Opposer has failed to allege grounds sufficient to establish its standing to maintain the present opposition in that Opposer has failed to allege grounds sufficient to establish prior rights establishing a likelihood of confusion. There is no likelihood of confusion between Applicant’s mark and Opposer’s UBID Marks (as such term is defined in the Opposition) owing to differences between such marks, including differences between: (1) the marks in their entirety as to appearance, sound, connotation and commercial impression; (2) the nature of the services as described in the applicable applications and registrations; and (3) the number and nature of similar marks in use on similar goods and/or services.

AFFIRMATIVE DEFENSE NO. 2

10. Applicant repeats and reiterates Paragraphs 1-9 as if fully restated herein.

11. One of the registrations cited by Opposer in its Opposition, specifically, UBID THE MARKETPLACE YOU CAN TRUST, R/N 3,065,399 (the “Junior Opposer Registration”), has a date of first use in commerce that is after the date of first use in commerce of the Ibid Application. As Applicant’s rights in Applicant’s mark are senior to Opposer’s rights in the Junior Opposer Registration, the Junior Opposer Registration does not establish any prior rights for Opposer against Applicant’s mark, and cannot establish that Applicant’s mark causes a likelihood of confusion against the Junior Opposer Registration. Consequently, Opposer has failed to allege grounds sufficient to establish any prior rights in the Junior Opposer Registration.

Dated this 12th Day of January 2009.

BY: /Royal W. Craig/
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Opposition has been served on uBid, Inc. by mailing said copy on this 12th day of January, 2009, via First Class Mail, postage prepaid, to:

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